

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PAMELA STICKLER,

Plaintiff,

vs.

MARRIOTT,

Defendant.

CASE NO. 09-CV-1254-IEG (CAB)

ORDER:

**(1) DENYING AS MOOT
PLAINTIFF'S MOTION TO
PROCEED IN FORMA PAUPERIS
(Doc. No. 16); and**

**(2) GRANTING PLAINTIFF
LEAVE TO AMEND PURSUANT
TO THE COURT'S JULY 28, 2009
ORDER.**

Presently before the Court is Plaintiff Pamela Stickler's Motion to Proceed *In Forma Pauperis*, received by the Court on December 11, 2009 and filed nunc pro tunc on December 14, 2009. (Doc. No. 16.)

DISCUSSION

On June 9, 2009, Plaintiff filed a complaint against Marriot, apparently alleging her civil rights were violated. (Doc. No. 1.) On June 19, 2009, the Court dismissed the action for failure to pay the statutorily-required filing fee. (Doc. No. 5.)

Subsequently, Plaintiff filed a Motion to Proceed *In Forma Pauperis*. (Doc. No. 6.) In the Court's July 28, 2009 Order, the Court granted Plaintiff's motion, but *sua sponte* dismissed the complaint without prejudice as frivolous and for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B). (Doc. No. 10.) The Court granted Plaintiff thirty (30) days from the date the Order

1 was filed to file a First Amended Complaint addressing the deficiencies of the pleading set forth in
2 the Order. The Court mailed the July 29, 2009 Order to Plaintiff at the address listed with the Court -
3 "General Delivery, Chula Vista, CA 91910-9999" - but the mail was returned as undeliverable.¹ (Doc.
4 No. 14.)

5 On December 11, 2009, the Court received the Motion to Proceed *In Forma Pauperis* presently
6 before the Court and ordered it to be filed nunc pro tunc. (Doc. No. 16.) Plaintiff's motion lists her
7 new address as: 4101 30th St. #B, San Diego, CA 92104.

8 **CONCLUSION**

9 Because the Court granted Plaintiff's previous motion to proceed *in forma pauperis* in the July
10 28, 2009 Order, the Court DENIES AS MOOT the motion to proceed *in forma pauperis* presently
11 before the Court.

12 Additionally, because it appears that Plaintiff may not have received the July 28, 2009 Order
13 *sua sponte* dismissing the case with leave to amend, the Court GRANTS Plaintiff an additional thirty
14 (30) days from the filing date of this Order to file a First Amended Complaint addressing the
15 deficiencies of the pleading set forth in the July 28, 2009 Order. Plaintiff is cautioned that her First
16 Amended Complaint must be complete in itself, without relying on references to the Original
17 Complaint. Plaintiff is further cautioned that any defendant not named or claim not re-alleged will be
18 considered waived. See King v. Attiyeh, 814 F.3d 1172, 1177-79 (9th Cir. 1996).

19 The Clerk shall mail a copy of this Order and the July 28, 2009 Order to Plaintiff's new
20 address at 4101 30th St. #B, San Diego, CA 92104.

21

22 **IT IS SO ORDERED.**

23

24 **DATED: December 17, 2009**

25 
26 IRMA E. GONZALEZ, Chief Judge
27 United States District Court

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¹On two other occasions the Court unsuccessfully attempted to mail to Plaintiff five separate
discrepancy orders filed in this case, in which the Court rejected documents for failure to comply with
the Local Rules. (Doc. No. 12, 13, 14.)